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USAID FAMILY FARMING PROGRAM TAJIKISTAN

GUIDE FOR CONTENTS OF THE BY-LAWS FOR A WATER USERS ASSOCIATION



JULY 1, 2014

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USAID FAMILY FARMING PROGRAM

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INTRODUCTION

The purpose of this Guide for Contents of the By-laws for Water Users Associations is to provide a relatively comprehensive list of items that could be included in the By-laws of a Water Users Association (WUA) or Federation of Water Users Associations (Federation). This is to enable officers of the Board of Directors for the WUA or Federation to study the list and select those items that they believe should be included in their own By-laws. Of course, the officers may also identify items not in this list that they believe should be included in their Association's By-laws or modify language to suit their circumstances, within the current WUA law.¹

Not all individual items included in this Guide will be needed for all WUAs, especially in the early years of a WUA. Some items will not be appropriate for the local circumstances or local geography. Each irrigation system and each WUA is different. The By-laws describe the purpose, structure, functions, internal rules, regulations, and protocol for a WUA. Of course, the By-laws must be consistent with the laws of the Republic of Tajikistan but as long as they conform to these laws a WUA does not need the official approval from the Government to adopt or amend them. However, the WUA may be required to submit a copy of its By-laws and subsequent amendments to an office of the Government.

This Guide has been prepared both for newly organizing WUA as well as for WUAs or Federations that have already been registered and are recognized as legal entities in the Republic of Tajikistan. In the beginning, a WUA or Federation may have a relatively shorter set of articles and items included in its By-laws. Over time, as the WUA and Federation evolve through a learning process for governing, managing, and financing their irrigation system, they may see the need to subsequently added articles and items to their By-laws. As with all organizational documents, it is good to review them every year to determine whether they are in need of updating or changing.

This Guide can be a reference for initial adoption and as ideas for a revision as the WUA matures, for later use by the Boards of Directors and members of WUAs and Federation.

¹ This Guide has been prepared by the USAID Family Farming Program It was finalized after numerous consultations with WUA officers, members of the Project team, government stakeholders and other interested parties.

USING THE GUIDE

Some sections in this Guide show two potential options for an item in the By-laws. . Select the one most appropriate for your WUA.

Option 1 *or* Option 2

Select the best option for your WUA.

Some sections suggest words or numbers to be added, these are shown in brackets Example: The ordinary meeting of the Representative Assembly must be held at least [**once**] a year and prepared by the Board of Directors. Each WUA can select the entry in brackets at their own discretion. The word “once” could be used or “twice,” etc., depending on the decision of the WUA.

Some sections suggest attachments to be added. These are also shown in brackets [**Show at the end of these By-laws**].

There are a few notes within this guide as in this example, they are underlined.

***Note:** After this only one option and only that method will be included in the By-laws of the WUA that has selected its option.*

QUESTIONS & ANSWERS FOR TOPICS ABOUT CHANGING THE BY-LAWS

Several questions have been brought forward by WUA in recent years. Here are some questions and answers.

GENERAL

Question: How do we ensure that our By-laws are consistent with the nation’s laws?

Answer: The WUA Law covers certain specific requirements, obligations, and authorities of the By-Laws. Any changes proposed in the WUA’s By-Laws should be reviewed to make sure they do not conflict with the laws of the Republic of Tajikistan. If the WUA Law is changed, each WUA will want to read the new version, and make sure their By-laws are in conformance with the new version.

ADDING NEW SERVICE AREAS TO A WUA

Question: Do By-laws need to be updated when the service area of a WUA changes?

Answer: If new areas are added to a WUA, or even if two WUA should want to merge, this is allowed by the WUA Law. However, changes will probably need to be made to update the By-Laws. There should be verification that two WUA do not cover any of the same farmland, and the new WUA, is still one hydro-geographic unit.

SALARIES OR STIPENDS FOR MEMBERS OF THE BOARD

Question: Can salaries or stipends be given to members of the WUA Board of Directors?

Answer: This is not prohibited by the WUA Law, and so the By-laws may allow it if the WUA decides so. By law, the WUA will have to pay applicable social taxes on top of salaries for employees.

WUAS AND COMMERCIAL ACTIVITIES

Question: Should WUAs engage in commercial activities?

Answer: No, In order to avoid taxation and other difficulties, the WUA should focus on irrigation system governance, management, and financing and maintain its non-commercial, non-profit status. Engaging in commercial activities distracts the WUA from its core function of water management and increases risks that may harm the WUA. Farmers of a WUA may and should establish a for-profit organization parallel to the WUA that engages in commercial activities such as bulk purchase of agricultural inputs, value-added crop processing, other agri-business activities, and marketing.

DESIGNATION OF THE WUA CHAIRMAN OR BOARD MEMBERS BY LOCAL AUTHORITIES

Question: Can local government authorities select the WUA Chairman or Board members?

Answer: No, This is not consistent with the WUA Law. While the WUA membership may want to consider the advice of local authorities, and seek board members who have good technical irrigation or agricultural experience, it is the right of the WUA to select their own leadership independent from the wishes of government authorities.

The following is an example of what the front page of a By-laws might look like. It is followed by potential contents of By-laws. These are arranged into articles and items as would appear in an actual document of By-laws. However, depending on which articles and items are adopted by a WUA, the numbering will change.

EXAMPLE OF A COVER PAGE FOR BY-LAWS:

By-laws for the XXX Water Users Association

Name of Water Users Association:

Name of Irrigation System:

District(s) Jamoat(s) and Province:

Date Charter was certified:

By-laws for the
XXX Water Users Association

ARTICLE 1: IDENTIFYING CHARACTERISTICS AND AREA OF JURISDICTION FOR THIS WATER USERS ASSOCIATION

1. The _____ Water Users Association in the Jamoat(s) of _____, _____, _____ and Villages of _____, _____, _____, _____, _____ and _____, district of _____, _____ province, has been established on _____ (date) with signatures agreeing to its establishment by _____ land possessors (owners or leasers) who possess and use _____% of the service area.
2. The _____ Water Users Association (hereafter, WUA) has a Current irrigation service area of _____ ha and a potential service area of _____ ha that is located in the area served by offtake(s) _____ of the _____ irrigation system.
3. The Association consists of the following [X] Water Users Groups:

WUG 1, irrigated from: _____ canal

WUG 2, irrigated from _____ canal;

WUG 3, irrigated from _____ canal;

WUG 4, irrigated from _____ canal.
4. The WUA address is _____.
5. These By-laws are the internal rules and regulations of the _____

Water Users Association, registered on _____ (date) with the following registration number: _____
6. These By-laws have been prepared in compliance with the Water Code, Water Users Association Law, the Civil Code, and the Law on Cooperative Societies.
7. The purpose of these By-laws is to clarify, specify and elaborate on articles and items contained in the WUA certificate of registration, which was approved by the General Assembly on _____ (date) in _____ (location).

8. When these By-laws and possible annexes, to them are approved by the Representative Assembly (or General Assembly),² they become legally binding on all members, non-member water users and third-party service providers.
9. Amendments can be added to these By-laws at any time but require a simple majority vote by the Representative Assembly (or General Assembly).
10. Signatures at the end of these By-laws acknowledge the service area, the scope of work of this WUA and the authority granted to the WUA to perform the activities that are stated in the founding document and these By-laws.

ARTICLE 2: PURPOSE AND STATUS FOR THESE BY-LAWS

The purpose of these By-laws is to provide scheme-specific functions, rules, regulations, and procedures for implementing the founding document. They are the internal rules and regulations of the Water Users Association and, as such, they do not need to be approved by the Government.

ARTICLE 3: OBJECTIVE OF THE ASSOCIATION

1. The objective of this Association is to provide irrigation and drainage services primarily to farms and secondarily to home garden parcels and other water users based on agreements with Association members and contracts with non-members.
2. This involves operating, maintaining and repairing the irrigation system that serves the Association's service area and those governing and support functions and activities listed in Articles 6 and 7 below.

ARTICLE 4: LEGAL STATUS OF THE ASSOCIATION

1. The WUA is established under the 2006 Water User Association Law, and subsequent amendments, and is a participatory non-commercial, non-profit making organization that is a legal entity and is established based on voluntary membership and that acts in the public interest.
2. The Association has been legally registered with the Tax Department of the Republic of Tajikistan.
3. The WUA has its own official seal, stamp, letterhead stationery, and logo.

ARTICLE 5: OPERATING PRINCIPLES OF THE WATER USERS ASSOCIATION

The following principles shall be applied regarding the implementation of these By-laws and the operation of the Association:

1. Full participation of members of the Association in its establishment and operation;
2. Decision making processes in the Association shall be fair and democratic;

² After the first General Assembly, the WUA will decide whether it will continue to have a General Assembly or will instead have a Representative Assembly (if there are too many members for a General Assembly to be accommodated in local facilities. It is expected that in most cases a Representative Assembly will be used.

3. Free access of members to information about Association activities;
4. Ensuring fair and equitable distribution of water for all Association members;
5. Ensuring rational and careful use of water so as to minimise waste and prevent erosion, salinization and water-logging;
6. Protecting the environment and providing rights and legal interests of owners and users of farm lands;
7. Operational costs are set to sustainably maintain and operate the system, and water user fees are to be set at a level to pay for these costs, if not immediately, then as soon as it becomes possible.

ARTICLE 6: FUNCTIONS OF THE WATER USERS ASSOCIATION

The main functions of the Association are:

1. To operate the irrigation system within the Association's service area and to distribute water to its members on the basis of annual agreements;
2. To distribute water on a contractual basis to persons who own or use irrigated land within the Association service area and who are not members of the Association;
3. To rehabilitate and improve irrigation systems within the Association Service Area and to undertake construction works as needed;
- 4a. To pay to receive irrigation water from the _____ (*insert name of water supplier*) that operates and maintains the _____ main canal (*insert name of canal*), for distribution within the Association Service Area;

OR

- 4b. To abstract water from the _____ River and/or from groundwater reserves for distribution within the Association Service Area;
5. To procure, substitute, operate and maintain irrigation equipment;
6. To manage water delivery and prevent water pollution;
7. To undertake land improvement works and avoids salinization and waterlogging;
8. To train Association members in irrigation techniques and promote the use of improved methods and technologies;

ARTICLE 7: SPECIFIC ACTIVITIES OF THE WATER USERS ASSOCIATION

In order to fulfill its functions, the Association may perform the following specific activities:

1. Obtain and renew permits, licenses or authorizations to abstract and/or use water as required by law;
2. Prepare an Irrigation Service Plan;

3. Monitor the implementation of the Irrigation Service Plan;
4. Plan and implement the rehabilitation and modernization of their irrigation system within the Association Service Area in order to reduce water losses and increase efficiency;
5. Plan, install, operate and maintain water measurement devices to monitor water supply coming into the WUA service area;
6. Prepare a schedule for water delivery among farms for an equitable distribution of water proportionate to the area and to the cropping pattern;
7. Settle irrigation disputes among members;
8. Collect fees to cover the costs of the Association;
9. Prevent violations of law by Association members and non-member water users and require repair of breaches and repayment of damages caused by offending persons;
10. Use property of the Association in accordance with current legislation of the Republic of Tajikistan;
11. Train and guide members in economic and efficient use of available water in the techniques of applying irrigation and in reclamation measures;
12. Maintain accounts of WUA fixed costs and irrigation service costs separately and have them audited annually;
13. Prepare annual reports; and
14. Undertake other lawful activities reasonably necessary to achieve its principal functions.

ARTICLE 8: MEMBERSHIP IN THE WATER USERS ASSOCIATION

1. Every person or legal entity who owns a plot of irrigated (or potentially irrigated) agricultural land within the Association service area or who has a legal right to use such a plot of land for a period of more than three years has the right to become a member of the Association.
2. A person who holds a use right over a plot of land cannot become or remain a member of the Association if the owner of that land plot is or becomes a member.
3. Every person or legal entity who has the right to use a plot of agricultural land within the Association service area on the basis of a lease, can become a member of the Association upon provision of a copy of the lease or written agreement of the landlord. Spouses who have use rights, through marriage, do not need to provide a written lease.
4. Every application to join the Association shall be made in writing to the Board.
5. The Board will admit every eligible applicant to membership immediately by ordering that their name be included in the Register of Members, unless:

- a. the applicant acquired the right to own or use land that was previously owned or used by a member of Association who owes outstanding fees to the Association, in which case membership shall be denied until such outstanding fees have been paid;
 - b. the application is made during the irrigation season, in which case admission to membership shall be postponed until the end of the irrigation season.
6. The restriction in item 5a above will not apply in the case of a successor to a person who has died and who owed money to the WUA, if the successor becomes personally responsible for paying off the liabilities of the deceased person.
7. In case a farm “owner” leases his or her farm to a renter for a period of three years or more, the renter may become the member that represents that farm, with or without the owner’s consent. For shorter-term periods of rent, the renter may take the position of member if he or she has a letter of consent from the owner or there is a special decision by the Board about this.
8. For farms owned or operated by a husband and wife, both shall be considered as members of the WUA and both may participate and speak at WUA meetings. However, only one of them may vote for any particular voting event. They may decide among themselves who will vote.
9. The Register of Members of the WUA is conclusive as to whether or not a person is a member of the Association.

ARTICLE 9: RIGHTS OF MEMBERS

1. Every member of the Association has the right to:
 - An equitable share of the irrigation water that is distributed by the Association;
 - Participate in the decision-making processes of the Association;
 - Vote in the election of Zonal Representatives and at Zonal Meetings providing that he or she is not in arrears with any fees due to the Association;
 - Propose agenda items for discussion at meetings of the Representative Zone;
 - Nominate candidates for and stand for election to the Association management organs;
 - Benefit from services provided by the Association;
 - Compensation where he suffers damage to his crops or to his land as a result of the negligence of any staff employed by the Association or as a result of operation and maintenance activities undertaken by the Association on his land; and
 - Inspect the accounts and records that the Association is required to maintain by law.
2. In case of violation of the rights of members of the Association by governmental, non-governmental, and other agencies and entities, members have the right to appeal to the court for damages in accordance with the legislation of the Republic of Tajikistan.

ARTICLE 10: OBLIGATIONS OF MEMBERS AND OTHER WATER USERS UNDER CONTRACT WITH THE WATER USERS ASSOCIATION

Every member of the Association must:

1. Obey all rules in these By-laws as approved by the Representative Assembly;
2. Pay any fees owed to the Association by a specified date in accordance with these By-laws;
3. Follow irrigation schedules and only take water in accordance with those schedules;
4. Do not damage any equipment that is used or owned by the Association;
5. Pay the repair or replacement costs for any equipment that is damaged as a result of any one's intentional act or negligent omission;
6. Promptly provide information to the Association about types of crops to be irrigated over what area and with what intended planting dates;
7. Give permission to the Association to use any pipes, canals, channels, hydrants or other hydro-technical equipment needed for the provision of irrigation and drainage services that are located on land that he owns or uses;
8. Allow staff of the Association onto his land with machines and equipment as may be needed for works concerning operation and maintenance of the irrigation system;
9. Observe all rules adopted by the Representative Assembly of the Association or the Board for irrigation system management and comply with any sanctions imposed by the Board/the Dispute Resolution Committee;
10. Comply with any sanctions imposed by the Association due to breach of these By-laws or any other rules, policies or decisions of the Association.

ARTICLE 11: RESIGNATION OF MEMBERS

1. Every member of the Association has the right to resign from the Association, provided that he first reimburses any costs incurred by the Association relating to the design, construction, maintenance, repairs, rehabilitation or operation of the irrigation system as a result of that person's membership;
2. A member who wishes to resign from the Association shall apply to the Board of Directors in writing. If the Board accepts the application for resignation at its next meeting, it shall, order the applicant's name to be removed from the Association's Register of Members at the end of the current irrigation season and the applicant will be notified accordingly;
3. The right to resign from the Association may not exercise until the end of the irrigation season.

ARTICLE 12: TERMINATION OF MEMBERSHIP

1. An Association member who ceases to own land within the Association's service area, who loses the legal right to use such a land plot, or who ceases to be eligible for membership, shall have his

or her membership in the Association terminated. The Board of Directors shall order the name of such a person to be removed from the Association's Register of Members;

2. A member may be expelled from an Association by a decision of the Representative Assembly³, on the proposal of the Board of Directors, in the case of the following repeating infractions:
 - a. Systematic non-compliance with the WUA By-laws approved by the Representative Assembly;
 - b. Refuses to communicate and cooperate with WUA officers or Executive Management Unit staff;
 - c. Refusal to pay fees or penalty fines due to the WUA;
 - d. Refusal to repair or pay for any damage to WUA equipment or facilities;
 - e. Illegal water abstraction or repeated failure to comply with water distribution schedules.
3. If a member or non-member refuses to pay the Irrigation Service Fee and other required charges for at least 3 months, and there is no extenuating circumstance for this that is accepted by the Board, the Board may decide to cut off irrigation services by the WUA to that person. This means that this person must find their (his or her) own means for obtaining water.
4. When a membership is suspended, the WUA Board in writing will notify the person and it will be announced in the next Assembly. After the person catches up with their payments to the WUA and expresses his or her intention to obey all the WUA rules in the future, the WUA Board of Directors may decide to readmit the person into the WUA as a member.
5. If a member repeatedly commits offences against the WUA and has been warned three times, the member will lose his or her membership in the WUA. This decision is to be made by the Board of Directors.
6. Any decision by the Association to expel a member shall be appealable to the economic courts.
7. A person who has been expelled from the Association shall not be entitled to re-join the Association until three years from the date of their termination of membership unless otherwise decided by the Assembly.

ARTICLE 13: ORGANIZATIONAL STRUCTURE OF THE WATER USERS ASSOCIATION

1. The _____ WUA consists of _____ members and as of [present year] had annual water service contracts with _____ non-member-water users. Its main governing body is the Representative Assembly. Between meetings of the Representative Assembly, the Board of Directors implements decisions and the program approved by the Representative Assembly. The Audit and Dispute Resolution Committees and, possibly, the Executive Management Unit, perform their duties as specified in the By-laws.

³ Or General Assembly, depending on which body exists. Hereafter, the term Representative Assembly or Assembly will be used although it should be understood to refer to whichever type of assembly exists.

2. The organizational structure of the WUA is presented in the organizational chart [shown at the end of these By-laws].

ARTICLE 14: ARRANGEMENTS FOR THE REPRESENTATIVE ASSEMBLY [OR GENERAL ASSEMBLY]

1. Unless WUA members are notified differently, at least one Representative Assembly will be held on the first Tuesday of February each year. Another meeting of the Representative Assembly will be held within one month after the final harvest of the irrigation season or in November or December, in order to discuss problems experienced, lessons learned from the irrigation season and pending business. The meetings will be held at: _____
2. At least two weeks prior to either of these meetings, the WUA Board shall distribute invitations to all members and non-member water users about the agenda for the meeting. In addition, notices will be posted at [location]. Any reports to be discussed and approved should be made available to all members of the Board, Zone Representatives and any members who request to review them. They should be available for two weeks prior to the meeting.
3. The notification about the Representative Assembly must include:
 - a. The official name and place of the Association;
 - b. The year, month, day, hour, and place for the Assembly;
 - c. The year, month, and day of preparing the list of persons with the right to participate at the Assembly;
 - d. The issues to be included in the Agenda for the Assembly; and
 - e. The procedure for learning about information and materials that will be submitted in preparation for the Assembly.
4. The information and materials to be submitted in preparation for the annual Assembly of the Association may include:
 - a. The Annual Report of the Association;
 - b. The conclusion of the Board of Directors and the Audit Committee of the Association on the results of the annual financial activities of the Association;
 - c. Information about the candidates for the Board of Directors and the Supervising Committee of the Association; and
 - d. Draft on modifying and supplementing the By-laws of the Association;
 - e. Any other business, from the members;
5. The Board of Directors may determine an additional list of information to be submitted during the preparations for the Representative Assembly.

6. Any members may propose to include a matter in the Representative Assembly as long as these are submitted to the Board at least [10] days in advance of the meeting. They may also present their views in the meeting along with others who are concerned about any other business.
7. The WUA Board, the Audit Committee, the Dispute Resolution Committee or a group of 25% of the members or 50% of Representatives have the right to request in writing that a special meeting of the Representative Assembly be held. This meeting must be held within one month from when the request was received by the Board.
8. Normally, the Chairman of the Board of Directors will chair or direct the Representative Assembly. In his or her absence, the Deputy Chairman of the Board will direct the meeting. In case both are unavailable for the meeting, another member selected by the other members of the Board will chair the meeting.
9. Non-member water users may attend the Representative Assembly, if invited. They may participate in discussions and present their views but they may not vote.
10. After the General Assembly decides whether to continue having meetings of the General Assembly or whether to have meetings of a Representative Assembly, this By-law will be revised accordingly.

ARTICLE 15: REPRESENTATIVE ASSEMBLY AND ZONE REPRESENTATIVES

1. If it is determined that the number of members of the WUA is too many to hold meetings of a General Assembly, then upon the basis of a vote by the Board of Directors, the WUA will hold meetings of a Representative Assembly, which will have the same scope and authority of the General Assembly.
2. The Representative Assembly will be established by Representative Zones based on hydrological sub-units within the WUA. The farmers in each Zone will select from among them by a simple majority vote one to four Zone Representatives. The number of Representatives will be proportional to the hectares in each zone, and to the total hectares of the WUA. Farmer members in each Zone will sign statements that they grant authority to the Zone Representative to vote in their behalf in the Representative Assembly.
3. A meeting of Zone Representatives organized in accordance with this By-law constitutes the Representative Assembly of the Association.
4. Members of the Association who are not Zone Representatives may attend and make comments in a Representative Assembly but will not be able to vote.
5. On a decision of the Board, persons who are not members of the Association may be invited to take part in the proceedings of the Representative Assembly. The invitees may take part in the debates but do not have voting rights.
6. Each Zone shall have approximately the same number of hectares of service area as in other zones, where the hydro-geographic divisions allow; otherwise, the number of zone representatives should be proportional to the size of the zone.
7. Each Zone Representative shall serve for a term of three years.

8. There will be re-elections of Representatives every four years. However, members of zones may call for a re-election of their Representative at any time as long as the majority of them call for it. The same person may be re-elected for another term of office as many times as he or the members of the zone elect her.
9. The Representative of each Zone must call a Zone Meeting at least 14 days prior to the date of the Representative Assembly meeting to discuss the draft agenda, to agree on proposals for the inclusion of additional items onto the agenda and to allow the members to advise their Representative of their opinions.
10. The Representative must forward to the Board of Directors any additional items to be included into the agenda for a Representative Assembly, as well as nominations for election to the Association's Board of Directors no later than ten days prior to date of the Representative Assembly meeting.

ARTICLE 16: AUTHORITY OF THE REPRESENTATIVE ASSEMBLY

The authority of the Representative Assembly includes the following options:

1. Specify the main activities of the Association;
2. Amend the Establishment Protocol;
3. Issue By-laws for the Association;
4. Approve the Irrigation Service Plan;
5. Approve the annual budget;
6. Approve the annual report and accounts of the Association;
7. Determine the annual fees payable by members and non-members for services provided by the Association;
8. Elect and remove members from the Board of Directors by secret ballot;
9. Elect the Chairman of the Board;
10. Approve the work order and mandate of the Audit Committee and the election and dismissal of its members;
11. Elect members of the Dispute Resolution Committee;
12. Approve the expense claims for members of the Board of Directors;
13. Determine the level of any fines to be paid by members of the Association;
14. Decide on the reorganisation or liquidation of the Association, appointment of a Liquidation Committee, and approval of an interim and final liquidation balance;
15. Undertake other tasks specified in these By-laws;

ARTICLE 17: PROCEDURES DURING THE REPRESENTATIVE ASSEMBLY

The following procedures will be followed in the activities of the Representative Assembly:

1. The ordinary meeting of the Representative Assembly must be held at least [**once**] a year and prepared by the Board of Directors;
2. The Board may call an extraordinary meeting of the Representative Assembly on its own initiative with the written request of 25% of its members or at the request of the Audit Committee;
3. The Representative Assembly is a quorum provided more than 60% of Representatives are present;
4. Meetings of the Representative Assembly shall be chaired by the Chairman of the Association or in his absence the Deputy Chairman of the Association;
5. Decisions of the Representative Assembly shall be made by show of hands, unless more than 50% of voters vote by show of hands for a secret ballot;
6. Decisions to amend the By-laws on re-organization and liquidation of the Association are determined by a two-thirds majority of votes cast. Decisions on other questions are determined by a simple majority of votes cast;
7. The Secretary of the WUA must keep minutes of all Representative Assembly meetings. The minutes must be signed by both the Chairman and Secretary and maintained in the Association's record of the minutes of the Representative Assembly;
8. Following a meeting of the Representative Assembly Zone Representatives shall call a Zone meeting to inform the Association members of the outcome of the meeting.

ARTICLE 18: VOTING, ELECTIONS, AND TERMS OF OFFICE

1. There are three options that the WUA may select from for allocating votes among its members. The Representative Assembly will decide on one of these and formally adopt it by a two-thirds vote.

Note: *There are different ways to balance voting rights relative to hectares of land owned or quantity of water used. We invite readers to examine the options and invite By-laws Committee members and WUA Board members to select one of these options, and include it in the By-laws of their WUA.*

2. Option A

Each member (or zone) of the WUA has one vote per issue in meetings of the General Assembly (or Representative Assembly), irrespective of the size of the farmer's plot (or zone) within the WUA's service area.

Option A may be desirable where the number of members is relatively small and where the generally accepted principle of equality in voting rights is based on one vote per member (or zone) without regard to how much land a member (or zone) owns or rents.

3. Option B

Each member of the WUA shall be allocated votes proportional to the size of their land plot within the WUA service area. The following table is a sample guide, which may be followed or edited as desired by a WUA.

Up to 2 hectares ('ha')	1 vote
From 2 ha to 3 ha	2 votes
From 3 ha 5 ha	3 votes
From 5 ha to 8 ha	4 votes
From 8 ha to 12 ha	5 votes
From 12 ha to 16 ha	6 votes
From 16 ha to 20 ha	7 votes
From 20 ha to 25 ha	8 votes
From 25 ha to 30 ha	9 votes
From 35 ha to 40 ha	10 votes

Option B may be desirable in a WUA that has dramatic differences between WUA members in how much irrigated land they cultivate within the WUA service area and most of the members believe that the degree of decision-making authority of each WUA member should be related to how much irrigated land they operate within the WUA. (This difference can be calculated at the level of individual members or at the zone level.)

4. Option C

Each member of the WUA shall be allocated votes in proportion to the size of their payment of fees as a percentage of the total fees levied by the WUA during the previous year. The following table gives an example of how votes could be allocated.

Up to 2%	1 votes
From 2% to 3%	2 votes
From 3% to 5%	3 votes
From 5% to 8%	4 votes
From 8% to 10%	5 votes
From 10% to 13 %	6 votes
From 13% to 16%	7 votes
From 16% to 20%	8 votes

From 20% to 25%	10 votes
From 25% to 30%	15 votes
From 30% to 40%	17 votes
Above 40%	20 votes

Option C may be desirable in a WUA that has large differences between members in what percentage of the total Water Tariff, Irrigation Service Fee or different members and where most members believe that this difference is important enough to result in differences in voting rights between members pay Membership Fee. (This difference can be calculated at the level of individual members or at the zone level.

5. The number of votes held by each member or each Zone Representative shall be recorded in the Register of Members. No single member shall hold more than 20% of the total number of votes.
6. The right of each Association member to vote is dependent on that member not being in arrears with any fees due to the Association.
7. Each Zone must promptly inform the Board of Directors of the name of its Representatives.
8. All votes for Zone Representatives shall be done by secret ballot **[or show of hands]**. This shall be agreed in advance of any voting.
9. Each Zone Representative has one vote at meetings of the Representative Assembly, irrespective of the size of the Zone he represents within the Association's service area.
10. The Representative Assembly may make regulations concerning the calling and holding of Zone Meetings.

ARTICLE 19: FUNCTIONS AND PRINCIPLES OF THE WUA BOARD OF DIRECTORS

1. The functions of the Board of Directors of the Association are to:
 - a) Undertake the governance, planning and supervision of management of the Association's activities;
 - b) Supervise the Executive Management Unit of the Association;
 - c) Elect the Chairman of the Board [by members of the Board] or [by the Assembly];
 - d) Call Representative Assembly meetings;
 - e) Prepare the agenda of the Representative Assembly meeting;
 - f) Prepare an annual report of the previous year's activities and accounts;
 - g) Prepare the Irrigation Service Plan and draft budget for the approval of the Representative Assembly;

- h) Develop and implement a standard form agreement for the supply of water to members and non-members;
 - i) Award contracts in accordance with the approved Irrigation Service Plan and budget; and
 - j) Fulfill other tasks specified in the Establishment Protocol or By-laws.
2. The Members of the Board shall at all times act in the best interests of the Association as a whole and shall not unfairly favour one group of Association members at the expense of another group.
 3. The Board is responsible to the Representative Assembly of the Association.

ARTICLE 20: MEMBERS AND PROCEDURES OF THE BOARD OF DIRECTORS

1. The area of jurisdiction and service for the WUA is divided into _____ zones. One of the five members of the Board of Directors will be selected from each of these zones (if they are 5 or equivalent to the number of Board members) or from another method, that gives equal representation to all zones in the WUA.
2. The election of Board members will be done in zone meetings prior to the Representative Assembly. Each zone or group of zones will select a Board member.
3. The Board of Directors will have the following positions and responsibilities:
 - Chairman, responsible for overseeing all activities of the WUA, presiding at Assembly and Board meetings, represents the WUA to external organizations, and so on;
 - Deputy Chairman, does any of the above functions when the Chairman is absent or delegates them to him or her, and may be assigned to perform specific functions such as monitor WUA management performance or submit reports to specific external officers;
 - Secretary, responsible to keep minutes at all Board and Assembly meetings and manage all records and the WUA's filing system;
 - Treasurer, responsible to oversee the Accountant's work and preparation of the WUA's budget, propose the annual Membership Fee or Irrigation Service Fee, and inspect and make recommendations about financial management;
 - Technical officer, responsible to provide Board support for preparation of the annual Irrigation Service Plan and to periodically work with the Manager of the Management Team.
3. The Board members will agree together on the assignment of Board members to Board Positions [including the position of Chairman unless this is to be decided by the Assembly].
4. A member of the Association who wishes to stand for election to the Board must submit a written application to the Chairman at least 21 days before a meeting of the General Assembly at which the elections will take place. The application must be seconded and signed by two other Association members.
5. Members of the Association who are in arrears with payment of fees and other debts and penalties to the Association do not have the right to stand for elections to the Board.
6. Board members are elected for a period of four years and may be re-elected for another term of four years for a total of eight years. After a previous Board member has been off the Board for one term, they may be re-elected for an additional term.

7. A Board member position becomes vacant if his or her election is declared to have been invalid, if the:
 - Term of office expires,
 - Board member ceases to have the support of his or her electoral zone members,
 - Board member dies or becomes incapacitated;
 - Board member resigns or is recalled or removed by the Representative Assembly;
 - Board member sells or leases his use rights for land.
8. Reasons for ouster of the Board member may be irresponsible behavior or statements, dishonesty, incompetence, and actions taken that are against the interests of the WUA.
9. Each member of the Board of Directors shall be paid a reimbursement for expenses to travel to Board meetings or within the WUA service area.
10. In case a member of the Board resigns, other members of the Board will select another person from that electoral zone to replace the Board member who resigned. The new Board member will function until the end of the term of the expelled/resigned member, when the members of that zone will elect someone.
11. A WUA Board member position is vacant before the expiration of the term if the election or appointment of the Board member is judicially declared void, or if the Board member ceases to qualify in the electoral zone from which elected, or if the Board member dies, resigns, or is recalled or removed.
12. When a Board member, to the substantial injury to the interests of the WUA, is determined incompetent to perform or is irresponsible or dishonest in the performance of the duties of the office, the remaining Board members by unanimous vote may remove that Board member. The Representative Assembly also has the right to remove a Board member by majority vote.

ARTICLE 21: MEETINGS OF THE BOARD OF DIRECTORS

1. The Board shall hold meetings at least monthly during the irrigation season, on the same day and the Board shall choose time each month as. The Board may change the day and time of meetings if needed as long as all members agree at least five days in advance of the new meeting day and time.
2. All meetings of the Board, except confidential sessions, are open to all members and non-member water users who can be accommodated within the meeting room. The Board may limit or control the participation of non-Board attendees as may be needed in order to maintain sufficient order and careful deliberations as needed.
3. Board meetings or parts of Board meetings may be closed and confidential if they concern matters that may be sensitive to people under consideration for offences or if they concern matters that are still pending further information and review or if they concern relationships between WUA affairs and private matters of individuals.
4. The Board may convene an emergency meeting if they consider it necessary. Any actions taken must be ratified in the next regular meeting and the reason for the meeting and proceedings and actions taken must be recorded in the minutes.

5. All binding votes by the Board require a minimum quorum of three members. In case of a tie vote, the Chairman may cast a second vote to break the tie.
6. Minutes of the Board shall be kept by either the Deputy Chairman or Secretary of the WUA but both or one of them plus another member of the Board must sign them.
7. The minutes shall include names of Board members present, concise explanations of all matters discussed, all motions, decisions and recommendations made, results of votes and what votes were cast by each Board member. Copies of any documents or reports discussed will be attached to and filed with the minutes.
8. A draft copy of the minutes will be distributed among each member of the Board within one week after the meeting. They may be revised if needed and the final version of the minutes will be ratified, signed by the Chairman, and filed in the WUA archive file as an official record in the following meeting of the Board. Members may have access to the minutes upon request, except those that are confidential sessions.
8. Once a year 20 days prior to the annual Representative Assembly, the Board shall prepare an annual report and an annual statement of account and balance sheet. The Board shall present the annual report, accounts, and the balance sheet to the Representative Assembly and present any relevant information that may be requested by at least 10% of the members of the Association.

ARTICLE 22: CHAIRMAN OF THE BOARD OF DIRECTORS

1. The Chairman of the Board of Directors is elected by a secret ballot of the Representative Assembly or Members of the Board.

The Chairman's term of office is for 3 years. In case of judgments of his or her activities being satisfactory, the Chairman may be elected repeatedly.

2. The Chairman of the Board has the following obligations and authorities, to:
 - a) chair the meetings of the Representative Assembly and the Board of the Association;
 - b) act as the legal representative of the Association in all questions of its activity;
 - c) act as the spokesman of the Board;
 - d) sign contracts and other legal documents in accordance with resolutions of the Board; and
 - e) undertake other tasks specified in these By-laws;

ARTICLE 23: SANCTIONS

1. The WUA, through the Board of Directors, has the right to apply sanctions or punishments against those who break the rules of the WUA, who damage irrigation structures, who cause disputes among WUA members and non-member water users, and who fail to pay WUA fees.
2. Sanctions may be in the form of fines, suspension of voting rights, mandatory labor contributions for extra maintenance or repairs, suspension of irrigation-water-delivery-service, and other forms decided by the Board of Directors to be consistent with the laws of the Republic of Tajikistan.

3. Repeating violations of WUA rules by the same person(s) will result in increasingly severe penalties, as approved by the Board.
4. In case of repeated imposing of penalties on a member, the Board can stop delivery of water to the offender.
5. In case a member commits an offence repeatedly, the Board will provide three formal warnings to the offender, either orally or in writing. If offences continue, the Board may remove the offender from his or her membership in the WUA.
6. If an Association member fails to pay any fees due to the Association by the specified date, that member must also pay a penalty fine at a rate of **[3%]** per month, or some other rate specified by the Representative Assembly.
7. No irrigation water shall be supplied to an Association member by the Association if that member is more than 60 days in arrears with payments to the Association or any penalty fines due to the Association, unless a repayment schedule has been agreed with the Board of Directors of the Association.
8. The Board of Directors of the Association may impose a penalty fine of 100 Somonis, **[or some greater amount as specified in a schedule contained in a regulation approved by the Representative Assembly]**, on any member who interferes with the delivery of irrigation water, damages irrigation structures or breaches any provision of the By-laws. If a member repeatedly incurs penalty fines, the Board of Directors may suspend the delivery of water to that member for a specified period.
9. The WUA will not be required to provide services to any member or non-member who is more than 60 days behind in paying the Irrigation Service Fee or other required charges, unless the one who is behind in payment has reached an agreement with the WUA Board about a repayment schedule.

ARTICLE 24: COMPENSATION

1. A member who suffers damage to his crops and/or his land as result of the negligence of the employees of the Association or because of operation and maintenance activities undertaken by the Association on his land may apply in writing to the Board for compensation.
2. The Board shall consider the application at its next meeting and may request the applicant to provide additional information and proof of loss as reasonably necessary.
3. If the Board agrees to the claim it shall inform the applicant of its decision and the amount of compensation it proposes that the Association should pay to the Applicant.
4. If the Association does not have sufficient funds available in its bank account to pay compensation to the member, the Board may agree to offset the compensation payment against current and/or future liabilities of the member to the Association.
5. If the Board rejects the applicant's claim or if the Applicant refuses to accept the amount of compensation proposed by the Board, the Applicant may ask for the matter to be re-considered by the Association's Dispute Resolution Committee. A decision of the Dispute Resolution Committee may be appealed to the Economic Court.

ARTICLE 25: RESPONSIBILITIES OF THE AUDIT COMMITTEE

1. The Audit Committee inspects and advises on the financial and economic activities of the Association, the Board of Directors and its Chairman and reports to the Representative Assembly of the Association.
2. The Audit Committee must inspect the accounting records, assets, inventory, and reconciliation of bank accounts of the Association at least once a year and may undertake additional inspections on its own initiative.
3. The Audit Committee must undertake additional inspections based on a:
 - a) Decision of the Representative Assembly;
 - b) Decision by no less than one third of the total members of the Board;
 - c) Decision of at least 25% of the members of the Association;
 - d) Decision of the Committee itself, in coordination with but not necessarily the permission of the Board;
4. The Audit Committee can examine the accounting records, property documents, balances, and transaction records of the WUA's bank account, contracts, receipts, and all other financial, bookkeeping, and accounting records of the Association.
5. The Board of the Association and the Executive Management Unit (EMU) must ensure that all records and accounts are placed at the disposal of the Audit Committee and the Board and EMU must fully cooperate with its inspections and enquiries
6. The Audit Committee shall fulfill its tasks in accordance with a regulation issued by the Representative Assembly.
7. The Audit Committee will examine quarterly the financial management and books of the Accountant. They will prepare a brief report on their findings and recommendations and will present it to the Board of Directors to be discussed with the Accountant and EMU Director at the Board meeting.
8. The Audit Committee presents its conclusions and recommendations in a signed annual report to the Representative Assembly. If a Committee member disagrees with the conclusions and recommendations in the report, that member may prepare a minority report that describes the reasons for disagreement. Both reports must then be submitted to the Representative Assembly for consideration.

ARTICLE 26: STAFF AND PROCEDURES OF THE AUDIT COMMITTEE

1. The Audit Committee has three members elected by the General or Representative Assembly for terms of office of three years. One of their members will retire and be replaced or re-elected after two years and the other two will retire and be replaced or re-elected after the third year. After these elections, the replacements will serve terms of office of three years after which they might be re-elected once. The Board will nominate the replacements who will immediately begin work

as needed, though the General or Representative Assembly must confirm them in their next meeting. No members of the Committee may serve more than two consecutive terms of office.

2. The members of the Audit Committee will select one of them to be the Chairman of the Audit Committee.
3. The Annual Audit Report will be prepared by the Audit Committee and submitted to the Chairman of the Board before the end of the month of January, after which it will be presented to the Representative Assembly in early February. If there is an external auditor, it will also be presented to him or her.
4. Upon its own initiative or upon the demand of one fifth of the members of the Association, the Audit Committee has the right to engage independent auditors to audit the operations of the Association.
5. If the Audit Committee were to discover serious malpractices in the financial management of the WUA, they have the power to demand that an external auditor be hired and given the task of independently examining financial records and interviewing people involved and determining the nature of the problem and suggesting recommendations. The External Auditor, Audit Committee and Board will prepare a presentation with recommendations for a special meeting of the General or Representative Assembly about how to solve the problem.
6. No member of the Audit Committee may at the same time be a member of the Board of Directors or Dispute Resolution Committee.
7. The members of the Audit Committee may receive modest compensation for expenses incurred during their work, transportation and related expenses. The Representative Assembly will decide the amount of compensation.

ARTICLE 27: RESPONSIBILITIES AND STAFFING OF THE DISPUTE RESOLUTION COMMITTEE

1. Conflicts between members of the Association regarding issues related to the functioning of the Association, water use and water distribution, which are not resolved immediately by the disputants with the Chairman or Deputy Chairman of the Board, may be solved by the Dispute Resolution Committee of the Association.
2. The Dispute Resolution Committee has three members elected by the Representative Assembly for terms of office of three years. In the Dispute Resolution Committee, two of their members will retire, be replaced, or be re-elected after two years. Two more will retire, be replaced, or be re-elected after the third year. A fifth member will retire, be replaced, or be re-elected after the third year.
3. After these elections, the replacements will serve terms of office of three years, after which they may be re-elected once. The Board will nominate the replacements who will immediately begin work as needed, though the Representative Assembly must confirm them in their next meeting. No members of the Committee may serve more than two consecutive terms of office.
4. The members of the Dispute Resolution Committee will select one of their members to be the Chairman of the Committee.

5. A member of the Dispute Resolution Committee may not also serve as a member of the Board of Directors or Audit Committee at the same time.
6. The members of the Dispute Resolution Committee may receive modest compensation for expenses incurred during their work, transportation and related expenses. The Representative Assembly will decide the amount of compensation.

ARTICLE 28: PROCEDURES OF THE DISPUTE RESOLUTION COMMITTEE

1. The Dispute Resolution Committee will prepare a guideline for disciplinary measures and procedures to be followed and will submit it to the Board and Representative Assembly for approval.
2. If a complaint or breaking of a WUA rule cannot be resolved immediately between the Manager or Chairman of the Board and the person(s) concerned, then the matter will be referred to the Dispute Resolution Committee for resolution.
3. After the Chairman of the Dispute Resolution Committee receives a request for dispute resolution from the Chairman of the Board, a meeting of the Committee and those involved in the dispute or infraction will be convened within seven days. Written notifications of the date, time, and place of the meeting will be sent to all participants five days beforehand.
4. The Dispute Resolution Committee will hear all arguments, obtain any documentary evidence and may make an inspection in the field. The Committee will attempt to have the issue settled by mediation, meaning that the parties involved will be encouraged to come to an agreement upon which they can both agree.
5. All deliberations of the Committee will be held in private. Results will be declared within three days after the meetings of the Committee.
6. If the Committee considers, that the complaint is false or trivial or inappropriate it shall dismiss the complaint. If the Committee is satisfied that the complaint is true it may take a decision to impose sanctions on the unsuccessful party in accordance with these by-laws.
7. The Dispute Resolution Committee shall submit a short confidential report to the Board of Directors immediately after each case is considered.
8. The Dispute Resolution Committee shall submit a non-confidential annual report on its activities to the Representative Assembly.
9. If the parties do not come to an agreed settlement then the Dispute Resolution Committee will come to a decision and send it in writing to all parties and the Chairman of the Board within five days.
10. A decision by the Dispute Resolution Committee to impose sanctions may be appealed to a court of law.
11. If either of the parties to a dispute are not satisfied with the decision of the Dispute Resolution Committee of the WUA, they may appeal to the District Court that is responsible for the area within which the WUA is located. The ruling of that Court will be final.

ARTICLE 29: STATUS OF BOARD OF DIRECTORS AND COMMITTEE MEMBERS

1. The members of the Board and members of the Audit Committee and Dispute Resolution Committee are not employees of the Association and, **[with the possible exception of the Chairman]**; do not receive a salary for their services.
2. In accordance with a decision of the Representative Assembly, the members of the Board, the Audit Committee and the Dispute Resolution Committee may be reimbursed their reasonable expenses relating to their attendance at Board or Committee meetings or at other venues related to their work in the WUA. The amount of such expense claims and the procedures for determining such expense claims are specified in a regulation issued by the Representative Assembly.

ARTICLE 30: REMOVAL OF BOARD AND COMMITTEE MEMBERS

1. The Representative Assembly may remove any of the members of the Board, including the Chairman, and any members of the Audit Committee or the Dispute Resolution Committee from office before the expiration of the term for which he or she was elected on the grounds of neglect of duty or violation of criminal or administrative law.
2. In the event that the Representative Assembly removes a member of the Board or a member of a Committee from office, it must appoint a replacement at the same meeting.

ARTICLE 31: EXECUTIVE MANAGEMENT UNIT

1. The Executive Management Unit (EMU) of the WUA has the responsibility and authority to prepare and implement the Irrigation Service Plan that will be approved by the Board and Representative Assembly.
2. The Executive Management Unit (EMU) consists of a Manager, an Accountant and other employees of the Association, such as a Mirob.
3. EMU staff will be employed with use of a labor contract that will be negotiated between the staff to be hired and the WUA Board. Staff hired and the Chairman or Deputy Chairman of the Board will sign the contract.
4. The WUA Board shall make a tentative decision to hire or dismiss staff of the Executive Management Unit (EMU), the finality of which shall later be voted on by the Representative Assembly.
5. No staff will be hired unless the Board of Directors has given approval and provisions have been made for it in the annual budget and Irrigation Service Fee. If necessary for emergency or unanticipated reasons, and if sufficient funds are available, additional staff may be hired by the Board of Directors until the end of the year if needed.
6. Salary levels of staff of the EMU and annual incremental increases will be recommended by the Board and approved or revised by the Representative Assembly. Staff performance will be criteria for setting annual incremental increases in salaries.
7. Labor relations of EMU staff within the Association will be followed in accordance with the Labor Code of the Republic of Tajikistan.

8. Staff of the Association have the right to Social Insurance and Social Security in accordance with the legislation and regulations of the Republic of Tajikistan.
9. A staff of the Executive Management Unit may also be a member of the WUA but may not be a member of the Board or any other elected office in the WUA.

ARTICLE 32: RESPONSIBILITIES AND AUTHORITY OF THE MANAGER OF THE EXECUTIVE MANAGEMENT UNIT

1. The Manager is responsible to the Board for the performance of the Executive Management Unit (EMU).

The duties of the Manager are to:

- a) Undertake the day to day management of the Association's activity;
 - b) Implement decisions made by the Board;
 - c) Ensure the correct performance of the EMU;
 - d) Prepare an Irrigation Service Plan and draft budget;
 - e) Implement the Irrigation Service Plan with the assistance of all EMU staff;
 - f) Provide services to members based on approval of the Irrigation Service Plan in the Assembly;
 - g) Prepare service contracts with non-members of the WUA for approval by the Board in accordance with the approved Irrigation Service Plan and budget;
 - h) Conclude contracts up to limits set by the Board in accordance with the approved Irrigation Service Plan and budget;
 - i) Prepare draft regulations for consideration by the Board and the approval of the Representative Assembly;
 - j) Control and measure the water supply when it enters into the WUA's service area and distribute the water among Association members and non-members under contract;
 - k) Hire and dismiss staff after approvals of the Board;
 - l) Issue instructions and orders which must be fulfilled by all hired staff;
 - m) Maintain the Association's registers and records;
 - n) Oversee the bank accounts of the Association in accordance with provisions approved by the Board.
2. The Director may appoint additional employees of the Association in accordance with the budget and work plan.

3. The Director is appointed by the Board and his precise terms of reference are defined in his employment contract.
4. The Director must attend meetings of the Board if invited but does not have a vote.

ARTICLE 33: THE ACCOUNTANT

1. The Accountant is hired by the Board and reports to the Board when it meets. When the Board is not meeting the Accountant reports to the Director of the EMU.
2. The functions of the Accountant are to maintain the books and records of the Association accurately in accordance with the instructions of the Board and the Director.
3. The precise terms of reference of the Accountant are specified in his or her employment agreement.
4. The Accountant is responsible to prepare the budget for the Irrigation Service Plan before the annual Representative Assembly in early February. This will be done under the direction of the Board of Directors and the Director of the EMU.
5. The Accountant will recommend the appropriate level for the Membership Fee and Irrigation Service Fee each year based on the budget for the Irrigation Service Plan.

ARTICLE 34: IRRIGATION SERVICE PLAN

1. The Irrigation Service Plan will be prepared annually. The Director, Accountant and other EMU staff will prepare it and submit it to the Board of Directors at least two weeks before the annual Representative Assembly.
2. The Board and Assembly will approve, possibly revise and approve the planned activities, the budget, and the fee. The Plan must be approved by a vote of two thirds of the Representative Assembly.
3. In case the EMU or Board finds that the budget is higher than the previous year, or higher than what was expected, the Board and EMU will determine what changes are needed in the budget and fee and will present these with justifications to the Assembly for approval.
4. The EMU will implement the Plan after the Representative Assembly approves it. The Board of Directors will supervise the EMU.
5. Preparation of the annual Irrigation Service Plan will include collecting information from all members and non-member water users at least two weeks prior to the annual Representative Assembly in early February about their crop plans and water requirements.
6. The Plan will include sections on:
 - a. Water acquisition and distribution schedule, amounts, farm and other
 - b. Locations for delivery,
 - c. Drainage arrangements,
 - d. Maintenance and repairs,
 - e. Governance and administrative activities,

- f. Assessment of management performance, and
- g. Budget and financial requirements;

ARTICLE 35: SUPPLY OF IRRIGATION WATER TO NON-MEMBERS

1. The Association may supply irrigation water to non-agricultural users (such as people with gardens, household water needs and small industries) and also to the owners or users of farms within its service area who are not Association members, in accordance with decisions of the Representative Assembly.
2. Charges to such users who are not members are set at a rate that is [200%] the rate that is charged to members.

ARTICLE 36: WUA INCOME AND FEES

1. The sources of income of the Association includes fees paid to the Association by members, income received from non-members for the supply of irrigation water on a contractual basis, interest on bank accounts, donations and grants from the state and other sources, as well as other sources not prohibited by the laws of the Republic of Tajikistan.
2. The Association shall levy the following fees against its members, consisting of:
 - a) The Bulk water supply fee for the government water supply agency at the river basin or sub-basin level, in accordance with the water tariff established by the Anti-Monopoly Commission and on the basis of the annual amount of water requested in the Irrigation Service Plan;
 - b) The Association's Membership Fee;
 - c) The Association's Irrigation Service Fee, based on the volume of water supplied;
 - d) Any other fees for additional requirements of the Association that have been approved by the Representative Assembly; and
 - e) Contributions to the Association's Capital Reserve Fund;
3. The Initial and Annual Membership Fee covers the establishment and fixed costs of the Association. This includes office expenses, salaries of staff, and transport and meeting costs of the members of the Board of Directors, Audit Committee and Dispute Resolution Committee. It may also cover the cost of occasional inventories of irrigation canals and structures. These fees are the same for all members.
4. A contract fee may be charged to non-members that is [200%] higher than normal Membership Fees, to balance the year-to-year payments made by WUA members. A contract fee paid by non-member water users will include the bulk water supply charge at the same rate paid by members of the WUA plus a service fee for on-farm network irrigation services that is [twice] the rate of the Membership Fee paid by members.
5. The irrigation service fee shall be set at a level that allows the Association to cover the costs of operation and maintenance of the irrigation system within its service area.

6. For WUA members, [30%] of the Irrigation Service Fee should be paid at the beginning of the irrigation season and the remaining [70%] should be paid before [November 1] each year. Members should make their payments to the Accountant at the WUA office in return for which they will receive an official receipt.
7. For non-members who receive irrigation services based on a contract, [50%] of the fee must be paid at the beginning of the irrigation season and [50%] must be paid before two weeks after the final harvest each year. Payments must be made to the Accountant at the WUA office after which the payer will receive an official receipt from the Accountant.

ARTICLE 37: FINANCIAL MANAGEMENT AND CONTROL

1. The WUA will prepare budgets that are aimed at providing what is needed in order to achieve agreed satisfactory standards of performance in the most efficient, optimal and practical manner possible.
2. The WUA will open a bank account in the name of the WUA that requires at least two signatures for every transaction except deposits. Separate sub-accounts will be opened and kept for:
 - Water supply charge revenues collected;
 - Operations and maintenance;
 - Membership fees, and
 - A capital reserve fund;
3. The Association shall keep accounts of receipts and expenditure and the Board shall be responsible for the preparation of an annual balance sheet and income and expenditure statement.
4. Two members of the Board must approve expenditures and a majority of the Board must approve hiring staff or temporary laborers and organizing communal labor contributions.
5. Non-members who have signed a service contract with the WUA will not be entitled to begin receiving irrigation water until after they have made their first payment.
6. Members and non-members who are late in paying the Irrigation Service Fee will be charged [3%] interest for each month late.
7. The Association is not responsible for the individual debts or liabilities of any of its members, for the past, present or future.
8. The Association is responsible only for its own debts being paid through its own assets.
9. Any member of the WUA who has not paid all fees and other charges by the end of the calendar year will be charged during the following year the same rates as a non-member. This will continue until the member catches up to date on payment of all fees and charges.
10. If the WUA Board determines during the irrigation season that there will be a budgetary shortfall, the EMU Director and Accountant and Board will prepare a short report that justifies an increase in the budget and, if necessary, an increase in the Irrigation Service Fee or the levying of a special

charge. The matter will have to be decided in an Extraordinary Meeting of the Representative Assembly.

11. All types of monetary assets accumulated in the WUA bank account at the end of the fiscal year shall be preserved in the bank account of the Association and will not be distributed among its members (as this would violate the principle of a not-for-profit association).
12. Any leftover or surplus funds accumulated at the end of the financial year must be retained within the Association and be deposited into the Capital Reserve Fund bank account. Such funds must never be distributed among Association members for the reason given in item 11 above.
13. The fiscal year for the Association will be from 1 January through 31 December.

ARTICLE 38: FINANCIAL RECORDS

The Association will keep accounts of receipts and expenditures and the Board will be responsible to review and approve an annual balance sheet and income and expenditure statement prepared by the Accountant.

The annual balance sheet and income and expenditure statement shall be examined by the Audit Committee and approved by the Representative Assembly.

1. The Association has the responsibility to present to the Regulating Unit within the Ministry of Energy and Water Resources and to other concerned state organs reports on its activity and performance in accordance with laws and regulations.
4. The Association shall maintain its records and books in accordance with relevant regulations and standards on accounting approved by the Ministry of Finance of the Republic of Tajikistan.

ARTICLE 39: RESERVE FUND

1. The Association will establish a Reserve Fund and shall open a separate bank account to this end.
2. At the end of each year, all unspent revenues will automatically be transferred into the WUA Capital Reserve Fund. These funds will be used only for emergency repairs, incidental repairs and improvements, rehabilitation, modernization or extension of the service area of the WUA.
3. Use of money from the Capital Reserve Fund will be proposed by the WUA Board of Directors and will be approved in the Representative Assembly.
4. After [two] years of experience, the WUA Board and Representative Assembly will decide on whether to add to the Irrigation Service Fee a certain routine amount for the Capital Reserve Fund, in order to ensure that this Fund will be able to grow over time.

ARTICLE 40: ASSETS AND USUFRUCT RIGHTS

1. There will be two types of Irrigation Asset and Management Transfer Agreements. The first will be for Water Users Associations and the second will be for a Federation of Water Users Associations.
2. Transfer Agreement for Water Users Association: The responsibility and authority for governance, provision of irrigation and drainage services and financing such services are

transferred to the Water Users Association. Ownership of all irrigation canals and structures (identified in the inventory conducted just prior to this transfer that is attached to the Transfer Agreement) is also transferred to the Association, with all the benefits and legal liabilities that this may entail.

3. Transfer Agreement for a Federation of Water Users Associations: The responsibility and authority for governance, provision of irrigation and drainage services and financing such services are transferred to the Federation. Use rights over all irrigation canals and structures (identified in the inventory conducted just prior to this transfer, which is attached to the Transfer Agreement) are transferred to the Federation, with all the benefits and legal liabilities that this may entail.
4. Transfer of usufruct rights or ownership over the irrigation canals and structures are formalized in an Irrigation Management Transfer Agreement, signed between the Ministry of Energy and Water Resources and the Association (or Federation).
5. After ownership of irrigation infrastructure is transferred under the Transfer Agreement, the Association (or Federation) will not need approval from the Ministry to make improvements, modernize, do major rehabilitation or extend the canals and service area of the WUA. Where only use rights are transferred, the Association (or Federation) must first obtain approval from the Ministry before carrying out any major improvements, modernization rehabilitation, or extension of canals and service area.
6. Any vehicles or equipment owned by the WUA may only be used by members of the Board of Directors or Executive Management Unit. Such vehicles and equipment may only be used for improvement of irrigation and drainage infrastructure.
7. Heavy equipment, such as bulldozers and backhoes, may only be operated by WUA staff whether they are used for WUA work or are rented out. Costs for use of vehicles and equipment must at least equal their costs for the WUA, at rates approved by the Board.
8. From time to time the EMU Director will recommend to the WUA Board what property needs to be sold or purchased. In order to identify property that the WUA no longer needs, the WUA manager shall periodically conduct an inventory of WUA tools, equipment and other items to determine what items are worn out or are no longer functional or safe to use. Based on this inventory the EMU Director shall recommend to the Board what property should be sold. The Board will approve and set prices for all sales. They will negotiate prices for items to be purchased or sold through an open tender.
9. WUA or Federation equipment may be rented to Association members under the following conditions:
 - a. Equipment is operated only by WUA or Federation staff;
 - b. Equipment is used only for improvement of irrigation or drainage systems;
 - c. Equipment is rented only at such times as the equipment and its operator cannot be advantageously used on WUA or Federation work;
 - d. The charge to the WUA member must be not less than the actual cost to the WUA;

ARTICLE 41: GOVERNMENT REGULATION AND RECORD KEEPING

1. The WUA will keep careful records of significant information that it may need or that may be required by the Ministry or other Government office. The Association shall maintain the following documents:
 - a. A register of members that is reviewed and updated each year, and that contains a description of the size and location of each member's farm plot within the Association's service area. This should include the name of the owner of the farm different from this member;
 - b. WUA By-laws;
 - c. Area cultivated in certain crops;
 - d. Irrigation Service Plans;
 - e. Irrigation Service Fee rates;
 - f. Irrigation Service Fee collection rates;
 - g. Record of fees owed and paid by members and non-members;
 - h. Register of current Zone Representatives;
 - i. Record of non-members who are supplied with water;
 - j. Map showing the Association service area;
 - k. Record of the quantities of water received by the Association;
 - l. Record of the requests for irrigation water from Association members;
 - m. Record of the quantities of water supplied to members and non-members of the Association or the number of irrigations they receive;
 - n. Record of land use and types of crops grown on the WUA service area;
 - o. Minutes of meetings of the Representative Assembly, the Board and the Audit Committee;
 - p. Annual balance sheet and report;
 - q. WUA income and expenditure statement;
 - r. Results of audits;
 - s. Record of transactions and contracts;
 - t. Functional condition of infrastructure;
 - u. Maintenance and repair activities carried out;
 - v. Record of results of disputes;

- w. Inventory of assets;
 - x. File of letters of attorney provided by the owners of dehkan farms to their farm renters who have become members.
2. The Deputy Chairman and Secretary of the Board shall keep written minutes of the proceedings of Representative Assembly meetings. The minutes will include a list of signatures and names of all persons attending and a record of all motions proposed and their disposition, outcomes of all votes, and references to documents discussed. The Deputy Chairman, Secretary of the Board and the Chairman of the Board will sign minutes. Any member has a right to read a copy of the minutes of any Representative Assembly meeting.
 3. The minutes of the Representative Assembly are recorded within five days after the end of the Assembly, in two duplicates, which are signed by the Chairman and the Secretary of the WUA. Both bear responsibility for the accuracy of the information contained in the minutes.
 4. The minutes of the Assembly shall include:
 - a. Year, month, day, and place of the Assembly;
 - b. Number of members and non-members attending the Assembly;
 - c. General contents of speeches that take place at the Assembly,
 - d. issues for voting,
 - e. voting results regarding these issues, and
 - f. decisions made by the Assembly,
 - g. Members attending, by name.
 5. The members of the Association have the right to study the minutes of the Assembly.
 6. The minutes may be revised by the Chairman upon agreement of the Board in its next meeting. Minutes will be read and approved by the next Assembly.
 7. Minutes of the Audit Committee are open to inspection by WUA members. Minutes of confidential sessions of the Dispute Resolution Committee are not open to inspection by WUA members.

ARTICLE 42: REORGANISATION OF THE ASSOCIATION

1. Reorganisation of the Association will be implemented on the basis of a decision of the Representative Assembly and the Agency for Land Reclamation and Irrigation and with the conclusions of an independent auditor.
2. Reorganisation of the Association might be decided upon by the Representative Assembly and the Agency stated above due to such fundamental problems as widespread corruption among WUA leadership, failure of the WUA to raise sufficient funds to pay for the fixed and variable costs, inability of the WUA to stop widespread breaking of WUA rules or to apply sanctions, inability of two or more factions within the WUA to cooperate in the purposes of the WUA.

ARTICLE 43: LIQUIDATION OF THE ASSOCIATION

1. Liquidation of the Association is realised by a decision of the Representative Assembly and in agreement with the Ministry of Energy and Water Resources, in accordance with the legislation and regulations of the Republic of Tajikistan.
2. A Liquidation Committee will be formed from the members of the Association and a representative of the Ministry of Energy and Water Resources **[or Agency of Land Reclamation and Irrigation]**.
3. Following the liquidation of the Association, the powers to operate remaining matters of the Association are transferred to the Liquidation Committee.
4. Assets and financial means left after satisfaction of all liabilities following liquidation of the Association, including compensation of all debts, are subject to distribution among members of the Association by decision of the Liquidation Committee.
5. Liquidation is considered to be completed and the Association is considered to be liquidated at the moment the name of the Association becomes excluded from the State Registry.
6. The books and records of the liquidated Association shall be retained in accordance with the existing state regulations on archive storage.

ARTICLE 44: COURT LIQUIDATION

In case of repeated violation of the fundamental rules and regulations of these By-laws, consistent failure to maintain and use irrigation system and equipment owned by the Government, and also of the Normative and Legal Acts stipulated by the legislation of the Republic of Tajikistan, the Association will be liquidated in accordance with the decision of the Court and based on the procedure envisaged by the legislation of the Republic of Tajikistan.

ARTICLE 45: ADOPTING AND AMENDING THE BY-LAWS

1. These By-laws came into force when they were approved by the Representative Assembly and signed by each of the members of the Board of Directors.
2. Amendments are made to the By-laws whenever needed. At least one member of the Board will recommend an amendment and put it in writing. A majority of the Board must approve it, after which it is recommended to the Representative Assembly for their approval with at least a two-thirds majority vote.
3. If the Board approves an amendment to the By-laws, and informs the members of the WUA, the amendment may take effect immediately but are considered only temporary until the Representative Assembly has the opportunity to meet and vote on the matter. After this it becomes a permanent part of the By-laws.

These By-laws are confirmed by vote of the Representative Assembly (or General Assembly) as follows:

Signed at _____ (location) on _____ (date)

Members of the Board of Directors:

1. Name: _____ Position: _____

Signature: _____

2. Name: _____ Position: _____

Signature: _____

3. Name: _____ Position: _____

Signature: _____

4. Name: _____ Position: _____

Signature: _____

5. Name: _____ Position: _____

Signature: _____